

FILED
BLOUNT COUNTY, TN
IN THE CIRCUIT COURT FOR BLOUNT COUNTY, TENNESSEE
2020 JAN 31 PM 4:37

MARTHA MILLSAPS,

CIRCUIT COURT
CLERK'S OFFICE

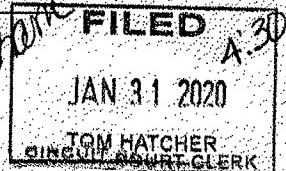
Plaintiff,

Docket No. L-20421

v.

MCELROY TRUCK LINES, INC.,

Defendant.



COMPLAINT

Martha Millsaps, Plaintiff, for her cause of action against McElroy Truck Lines, Inc., Defendant, hereby states as follows:

THE PARTIES

1. Martha Millsaps (hereinafter referred to as "Plaintiff"), is a citizen and resident of Blount County, Tennessee.
2. Upon information and belief, McElroy Truck Lines, Inc. (hereinafter referred to as "Defendant"), is a corporation incorporated in the state of Alabama, and may be served with process through their registered agent J.C. McElroy, Jr. at 111 U.S. Highway 80 Spur Road, Cuba, Alabama 36907.

FACTUAL BACKGROUND

3. On or about February 3, 2019, at approximately 5:06p.m., Thomas Wagner, an employee of Defendant (hereinafter referred to as "Employee"), negligently ran the red light at the intersection of U.S. Highway 411 South in Maryville, Tennessee, while operating an International eighteen-wheeler motor vehicle owned by Defendant.

EXHIBIT

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4. When Employee ran said red light in direct violation of the Tennessee Rules of the Road at Tenn. Code Ann. § 55-8-110, the employee struck the motor vehicle of Plaintiff, as she was attempting to lawfully cross the intersection.

5. Employee's violation of the above-referenced Tennessee Code Annotated statute constitutes negligence per se.

6. Employee was an agent and employee of Defendant acting within the scope of his employment at the time of the above-mentioned motor vehicle accident by transporting timber.

7. Defendant provided express consent to Employee to permit Employee to operate the motor vehicle owned by Defendant.

8. Defendant is vicariously liable for the negligent actions of Employee committed while acting within the scope of his employment, due to the doctrine of Respondeat Superior.

9. Due to the negligent action of Employee, Plaintiff suffered severe bodily harm, and is still under medical treatment for related injuries.

10. Plaintiff has incurred extensive medical expenses to-date and will continue to incur further medical expenses for the foreseeable future.

COUNT ONE

NEGLIGENCE

11. Plaintiff incorporates the allegations contained in Paragraphs 1 through 10 inclusive of this Complaint as if set out fully herein by reference thereto.

12. Employee had a duty to Plaintiff to operate a motor vehicle as a reasonable prudent person, following all Tennessee Rules of the Road.

13. Employee breached said duty owed to Plaintiff by acting in direct violation of the Tennessee Rules of the Road at Tenn. Code Ann. § 55-8-110.

14. Employee's violation of Tenn. Code Ann. § 55-8-110 constitutes negligence per se.

15. Employee was the actual cause and the proximate cause of Plaintiff's severe physical injuries.

16. Plaintiff has incurred extensive medical expenses to-date and will continue to incur further expenses for the foreseeable future.

17. Defendant is vicariously liable for the established negligence of Employee through the doctrine of Respondeat Superior.

WHEREFORE, Martha Millsaps, Plaintiff, respectfully prays as follows:

A. That proper process issue and be served upon the Defendant requiring response to this Complaint within the time allowed by law.

B. For money judgment against the Defendant in an amount up to Five Hundred Thousand Dollars (\$500,000.00).

C. For all costs of this cause of action.

D. For such other and further relief to which Plaintiff may prove entitled.

Respectfully submitted,

Martha Millsaps
Martha Millsaps

OF COUNSEL:

**TARPY, COX, FLEISHMAN
& LEVEILLE, PLLC**

By:


R. Seth Oakes (032284)
1111 Northshore Drive
Landmark Tower North, Suite N-290
Knoxville, Tennessee 37919
(865) 588-1096
(865) 588-1171 (fax)
soakes@tcflattorneys.com

OATH

STATE OF CALIFORNIA)
) ss
COUNTY OF CONTRA COSTA)

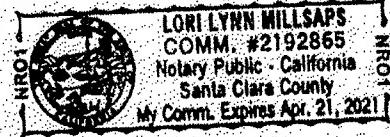
I, the undersigned, after being first duly sworn according to law, make oath that we have read the foregoing Complaint and that the facts set forth therein are true to the best of our knowledge, information and belief, and that the foregoing is a true and correct statement of the facts.

By: *Martha Lynn Millsaps*
Martha Millsaps

Sworn to and subscribed before me this 21st day of January, 2020.

Lori Lynn Millsaps
Notary Public

My Commission Expires: 4/21/2021

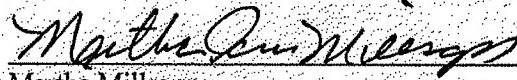


A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

COST BOND

I, Martha Millsaps, as Principal, and Tarpy, Cox, Fleishman & Leveille, PLLC, as Surety, are held and firmly bound unto the Clerk of the Circuit Court for Blount County, Tennessee, for the payment of all costs awarded against the Principal. To that end, we bind ourselves, our heirs, executors, administrators, successors, and assigns.

The Principal is commencing a legal proceeding in the Circuit Court of Blount County, Tennessee. If the Principal shall pay all costs which are adjudged against her, then this obligation is void. If the Principal fails to pay, then the Surety shall undertake to pay all costs adjudged against the Principal. Mandated at T.C.A. § 20-12-120 et seq.

PRINCIPAL:
Martha Millsaps**SURETY:****TARPY, COX, FLEISHMAN &
LEVEILLE, PLLC**

By: 
R. Seth Oakes (032284)
1111 Northshore Drive
Landmark Tower North, Suite N-290
Knoxville, Tennessee 37919
(865) 588-1096
(865) 588-1171 (fax)

**STATE OF TENNESSEE
THE CIRCUIT COURT
FOR BLOUNT COUNTY
ATTORNEY TO SERVE FILED
SUMMONS BLOUNT COUNTY, TN**

Re: Martha Millsaps v. McElroy Truck Lines, Inc., Blount County Circuit Court, L-2020 JAN 3 PM 1137 L-20421

To: McElroy Truck Lines, Inc.
c/o J.C. McElroy, Jr., Registered Agent
111 US Highway 80 Spur Road
Cuba, Alabama 36907

Attn: Dwe
**CIRCUIT COURT
CLERK'S OFFICE**

You are hereby summoned and required to serve upon R. Seth Oakes, Plaintiff's attorney, whose address is 1111 Northshore Drive, Landmark Tower North, Suite N-290, Knoxville, Tennessee 37919, a true copy of the answer to the Petition which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. You will file the original with the Court. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Petition.

Issued this 31 day of January, 2020.

Tom Hatchak
Clerk
Kathy
Deputy Clerk

(This summons is issued pursuant to Rule 4 of the Tennessee Rules of Civil Procedure)

NOTICE

TO THE RESPONDENT(S):

Tennessee Law provides a ten thousand dollar (\$10,000.00) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

Received this _____ day of _____, 2020

Deputy Sheriff

RETURN ON SERVICE OF SUMMONS

I hereby certify and return that on the _____ day of _____, 2020, I served this summons together with the complaint as follows: _____

I failed to serve this summons within 30 days after its issuance because _____

Sheriff-Deputy Sheriff-Process Server